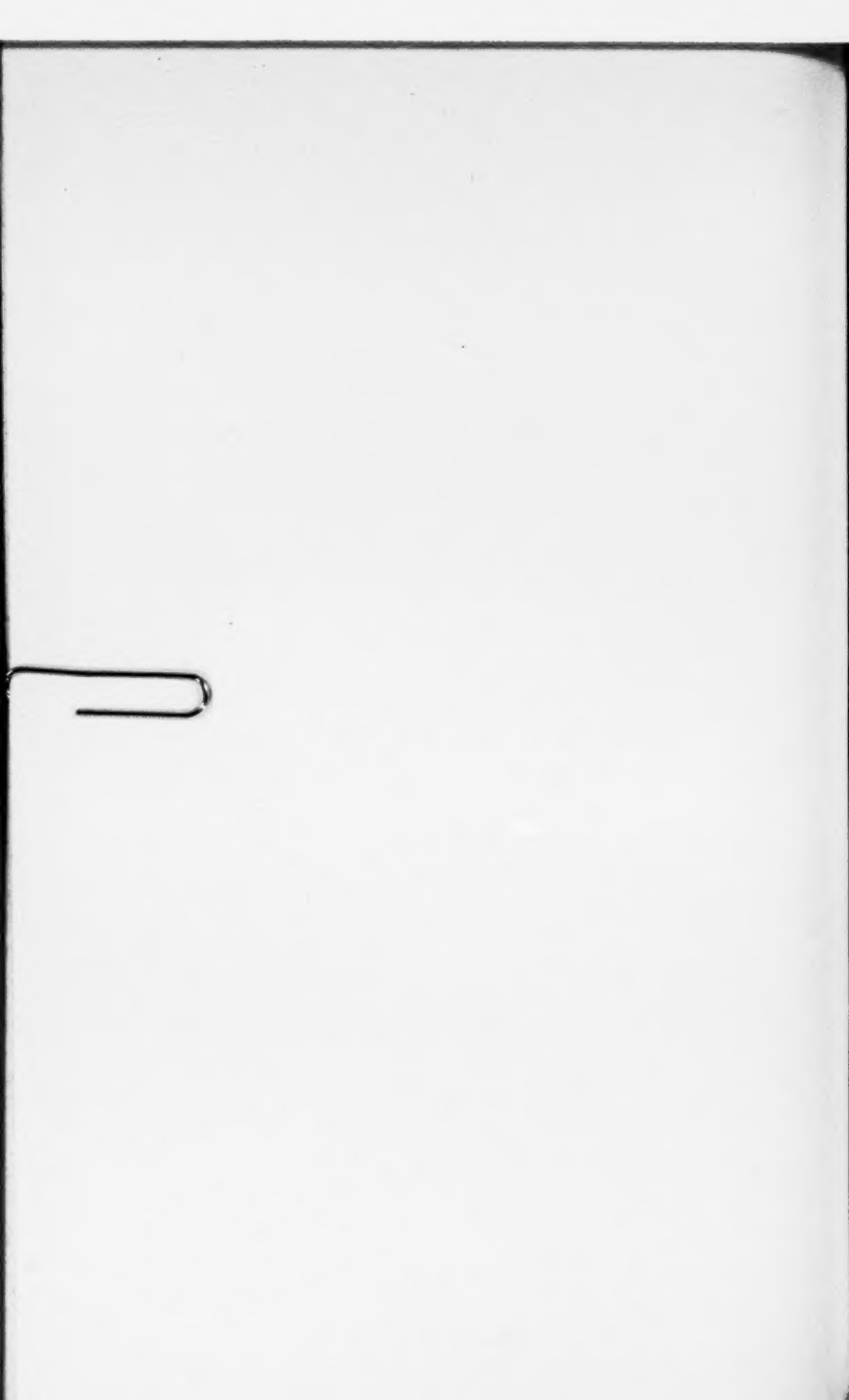

No. 386

IN THE

Supreme Court of the United States

OCTOBER TERM, 1942

OLUF BORUP, et al., seamen on board the American Whale Factory Ship "ULYSSES,"

Petitioners,

against

American Whale Factory Ship "ULYSSES," her engines, boilers, tackle, apparel, furniture, etc., and WESTERN OPERATING CORPORATION, Owner, and H. M. MIKKELSEN, Master,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

JOSEPH K. INNESS,
Proctor for Respondents.

THOMAS J. BLAKE,
Proctor for Respondents.

CORPORATE PRESS, INC., NEW YORK CITY

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I.

Opinions Below.

The opinion in the District Court, not officially reported, is printed in pages 310-327 of the record (928-981). The opinion of the Circuit Court of Appeals, dated July 31, 1942, is reported in Fed. 2nd and is attached to the record certified by the Circuit Court to this Court.

II.

Jurisdiction.

The petition fails to bring itself within the provisions of Section 240 (a) of the Judicial Code as amended 28 U. S. C. A. 347 (a) in the light of Rule 38 of this Court.

It fails to establish any conflict between the instant decision and those of this Court or of any other Circuit Court of Appeals or to demonstrate that it invokes an important question of public interest or local law.

III.

Statement.

The 250 petitioners, mainly Norwegians, were, during the Antarctic whaling season of 1939-40, members of the crew of the American Whale Factory Ship *Ulysses,* which vessel was owned and operated by the respondent Western Operating Corporation, a Delaware corporation, with offices in New York City.

Petitioners signed articles before an American Consular Officer at Sandefjord, Norway, in September, 1939, and, in addition, signed contracts of hire (37-44) incorporating by reference two other agreements, one dated September 12, 1939 (94-103) and the other September 13, 1939 (46-93). The articles provided (39)

"The engagement is:

(a) for the ship's voyage from Sandefjord on a whaling trip to the Antarctic and thence to Sandefjord or port of discharge.
(b) for a period of one season.
(c) until signing off, which can only take place at Sandefjord."

The "arbitral award" provided (81-82):

Par. 8

"2. The crew member may be discharged wherever the Company should so desire. In case of discharge, the crew-member can claim free travel and full pay to the place of signing on."

"3. If the crew-member himself desires to be signed off at a place other than the place of signing on, and this is granted, his wages shall then cease and travel expenses home disallowed."

The *Ulysses* left Sandefjord, Norway, on October 7, 1939 and proceeded toward the whaling grounds. In entering St. Helena Bay for the purpose of refueling its whale catcher boats, the *Ulysses* (452) struck a then uncharted pinnacle rock and sustained damage to her hull, necessitating a trip to Durban on the east coast of Africa for repairs (453). The necessity of making said repairs delayed the vessel so that she was unable to start whale hunting until December 29, 1939 (416), the season having opened on December 8, 1939 (417).

After the close of the season on March 7, 1940, the *Ulysses* was proceeding to Norway to discharge her crew when the invasion of that country by Germany took place. Under the President's Proclamation of April 10, 1940, the *Ulysses* was unable to proceed to Norway (461) and the Master was ordered by the owner to proceed to New Orleans where she arrived on April 26, 1940 and discharged her cargo, following the procedure of the English and Norwegian expeditions.

While at New Orleans and on April 27th, 1940, the Master was served with an order of the U. S. Department of Labor, Immigration Bureau (419), requiring the detention of the libellants on board in any port of the United States.

The vessel then proceeded to New York for repairs where the Master was again served with a detention order of the Immigration Bureau (464). Efforts were made by respondents with the United States authorities to have the petitioners transferred ashore to be maintained at its expense at Ellis Island, The Seamen's Church Institute, or at a hotel but all requests were refused (419). Later an arrangement was made with the authorities to allow one-half of the crew to go ashore every twenty-four hours in the custody of the Norwegian Consul, but none were allowed ashore for longer than twenty-four hours except

for the purpose of shipping aboard a foreign vessel (419-420).

Simultaneously with the arrival of the vessel in New York about May 10, 1940, the men were advised to take jobs on other vessels (631, 774). As a result, approximately ninety members of the crew signed off to serve on foreign vessels. The remainder of the crew remained aboard the vessel and (with the exception of the engine room and victualling personnel) performed no duties pertaining to a whaling voyage and none exceeding in value the maintenance which they received aboard (471-472). The services were such as were necessary only for disciplinary purposes. It was found that what little work was done was for disciplinary purposes only and it was after the hearing of the exceptions to the libel before the Court and after listening to the learned Judge as to a settlement (930) that the Chief Mate told the crew not to render further services of any kind (473).

The owner decided that whaling was no longer profitable for American companies in view of war conditions abroad and the enormous duties on whale oil at home and on June 29, 1940, the vessel was placed in Robbins Dry Dock for the purpose of converting her into an oil tanker (421). Petitioners had notice of the intended conversion as early as May 22, 1940 (717-719). The libel in this action was filed on July 1, 1940 (19).

Petitioners' compensation consisted of basic wages, a share in the oil taken, overtime, war risk bonus while the vessel was in certain areas and a "sliding scale" bonus based on the average sale price of 80% of all oil taken on Norwegian expeditions for the 1939-40 season.

Petitioners were paid a half month's wages at New Orleans and a total of $90 per man before the final decree herein. To such of the petitioners who made a request, ap-

pellees made advances for clothing aggregating $2,500 (306). Respondents also bore the cost of the petitioners' maintenance until they left the vessel pursuant to the District Court's decree on January 11, 1941.

The lower court found in favor of the petitioners for basic wages earned to the end of the voyage (May 15, 1940) and six weeks wages to cover the time necessary to return home; and sliding scale bonus (all of which respondents admitted were due).

Petitioners' additional claims for wages beyond the end of the voyage, additional wages for "over-wintering" and for additional war bonus were rejected. In regard to expenses for repatriating petitioners, the lower Court held that all petitioners who did not ship foreign on other vessels would be entitled to this amount also which was in conformance with the contracts of hire.

Petitioners also sued in the alternative Third Cause of Action for damages alleged to have been sustained by the delay in starting the hunting season, claiming that the accident was *force majeure* requiring additional payments under the contract or was caused by respondents' negligence and that damages were payable to petitioners under the law of negligence.

The lower Courts found that the accident was neither *force majeure* within the meaning of the contract nor negligence and that petitioners had no cause of action (1066-1067, C. C. A. Opinion, fol. 406).

Petitioners also sued on a Fourth Cause of Action for alleged damages caused them by the action of respondents in deciding to withdraw from the whaling business. This has been abandoned (998).

The claims of petitioners in the Third and Fourth Causes of Action aggregated $300,000 and their claims for penalties under the United States Statutes amounted to $50,000.

They could have received their wages and bonuses actually earned and which respondents admitted to be due but they refused to accept same and sign off unless the above claims were paid (801-803) which position was found by the Commissioner and the District Court to be wholly unfair and unreasonable (476, 1053).

Petitioners have now abandoned their claims for penalties under the United States Statutes as well as their claims under the Fourth Cause of Action. No reference is made on this application to the claims under the Third Cause of Action so that this too seems to have been abandoned.

The libel, *in rem* and *in personam,* was filed July 1, 1940 (34) but, there being no court for trials, exceptions to the libel and amended libel were filed and various hearings held and motions made but the petitioners could not be satisfied (although the Court tried to effect a settlement) (930) for anything less than petitioners' full demands. It was not until a Special Commissioner was appointed that the cause could be tried. The Special Commissioner's report was filed on October 11, 1942.

The two main questions raised upon this application, then, are whether the courts below were correct in finding that wages ceased to accrue on May 15, 1940 and that petitioners who took service on other vessels lost their rights to repatriation.

IV.

Proceedings Below.

The Special Commissioner found that the whaling voyage had ended through no fault of either party by operation of law on or about May 15, 1940 (461-462). That the Presidential Proclamation of Neutrality of April 10,

1940 had frustrated the voyage so as to terminate effectively the running of wages beyond May 15, 1940 and further found that no wages were earned by crew members beyond that date (461-463).

The District Court affirmed the findings of the Special Commissioner in all respects pertinent to the petition to this Court (948, 951-952).

The Circuit Court of Appeals also confirmed the findings below in all respects (Opinion, C. C. A., p. 400).

The Special Commissioner, the District Court and the Circuit Court of Appeals all found that, according to the specific terms of the contract of employment, any member of the crew who shipped aboard another vessel thereby waived his right to repatriation (1042—Opinion, C. C. A. 403).

V.

Argument.

Summary of Argument.

Point A. A seaman's contract may be terminated and further performance thereunder excused by circumstances other than a formal discharge and the holding of the Courts below that the frustration of the voyage herein was such a proper circumstance is correct.

Point B. The Neutrality Proclamation of April 10, 1940 frustrated the adventure so as to deny petitioner's claim for basic wages beyond May 15, 1940 and no alternative method, possible of performance, of effecting a discharge existed after the arrival of the vessel at New York.

Point C. The "admission" of liability of July 15, 1940, constituted, at its strongest, an estoppel insufficient to revive affirmatively a contract which had expired by operation of law on May 15, 1940.

Point D. The petitioners who took service aboard other vessels thereby lost their rights to repatriation.

Point E. The opinions below are in accord with prior Federal and State Court decisions and raise no question of national or local importance and are in accord with the decisions of this Court.

POINT A.

A seaman's contract may be terminated and further performance thereunder excused by other means than by formal discharge and the holding of the Courts below that the frustration of the voyage herein was such a proper circumstance was correct.

Point A. Contracts may be terminated and further performance excused in many ways other than by performance or mutual consent. To insist that the petitioners were entitled by their contract to a discharge can have no weight if it be found that intervening circumstances excused performance of said contract in that respect. Such a finding has been made by the Courts below. That the intervening circumstances were sufficient is considered and established in Point B, *infra.*

Further performance may be excused by (1) a fortuitous event interfering with performance. *Lorillard* v. *Clyde,* 142 N. Y. 456; *Buffalo & L. Land Co.* v. *Bellevue L. & I. Co.,* 165 N. Y. 247; *The Kronprinzessin Cecilie,* 244 U. S. 12. (2) by act or operation of law. *Allanwilde Transport Corp.* v. *Vacuum Oil Co.,* 248 U. S. 377; *Omnia Commercial Corp.* v. *U. S.,* 261 U. S. 502; *Mawhinney* v. *Millbrook Woolen Mills,* 15 A. L. R. 1512 and (3) by act of a party. *Charles L. Baylis,* 25 Fed. 862.

On the point of the frustration of the voyage (thus the impossibility of performance of petitioners' contract) the

Courts below have found such impossibility sufficient to warrant a termination of the contract by act and operation of law (1038—Opinion, C. C. A. 400).

Petitioners maintain that, so far as seamens' contracts are concerned, the rules governing the termination of contracts do not apply and that only a discharge may effectuate a cessation of the running of wages.

The authorities cited by petitioners do not support such a position but rather refute it.

The laws of the United States cited (Title 46, U. S. C. A., Sections 596, 597, 641-646) do not apply at all to petitioners who were members of the crew of a whaling vessel, by the express provisions of Title 46, U. S. C. A. 544 which states that the sections cited do not apply to whaling vessels. Moreover, were they to have any pertinence as an expression (as petitioners insist) of legislative intent, we need only refer to another section of Title 46, Section 593, to perceive that it is not intended that a discharge be necessary in all cases but that wages shall be paid, in proper circumstances, only up to a reasonable point without relation to a formal discharge. Title 46, U. S. C. A. 593 is as follows:

> "In cases where the service of any seamen terminates before the period contemplated in the agreement, by reason of wreck or loss of the vessel, such seamen shall be entitled to wages for the time of service prior to such termination, but not for any further period."

As to the Statutes of Foreign Nations cited as evidence of the General Maritime Law, each of those cited by petitioners by its very terms excludes the necessity of a formal discharge in all cases. It would be redundant to review each of the statutes cited since the above is true of all so respondents will consider only the first cited on page 31 of the petition, the Danish statute provides:

> "Wages shall be due to and including the day on which the employment ceases or, if the crew is paid off, to and including the paying-off day, *unless the seaman's right to wages has ceased earlier owing to sickness or some other reason.*"

The decisions cited by petitioners are not in conflict with the decision of the Circuit Court of Appeals herein and do not support the absolute right of seamen to a discharge in all cases.

In *Brown* v. *Lull,* Fed. Cas. 2018, Judge STORY stated the principle to be without doubt that the capture of a neutral ship does not operate as a dissolution of a mariner's contract but only as a suspension thereof. But he does state unequivocally that a sale of the vessel in condemnation dissolves the contract

> "and the seamen are *discharged* from any further duty on board."

A perfect example of the termination of a seaman's contract by a fortuitous event interfering with performance.

Tarleton v. *Mallory,* Fed. Cas. 13,753 also presents with approval the proposition that termination of a maritime contract of hire by operation of law (this time by loss or wreck of the vessel) has long been known in admiralty. While the court there awarded the crew extra wages for the time spent in attempting to save the vessel after stranding, on the master's orders, until she was finally abandoned, it stated that it has long been the rule of general maritime law that the loss of the vessel terminates the crew's service. Here, again, not by discharge but by operation of law.

The other two American cases cited by petitioners have no relation on the facts to the instant case and neither state that discharge is a *sine qua non* to the termination

of wages. Moreover, both are based upon Title 46, U. S. C. A. 596 which, by virtue of Section 544 of that Title, does not apply to the whaling vessels and their crews.

Lastly, petitioners' own petition (p. 4) states that

> "In fact, the petitioners were never discharged by the respondents, but, inasmuch as the petitioners arrested the vessel pursuant to process in rem on October 11, 1940, it will be conceded for the purposes of this appeal, that the right to wages terminated as of October 11, 1940."

A perfect example of termination by act of a party.

Petitioners have not only failed to establish that the general rules of law relating to the termination of contracts do not apply to seamen's contracts but by the authorities cited and their own concessions established that seamen's contracts may be terminated by Act of the party, fortuitous event interfering with performance, and by Act and operation of law.

2. As a curious addendum to their point petitioners have advanced the theory that impossibility of performance, where established, merely gives the master or the owner the right to discharge. No authority is advanced for this startling statement other than the submission that it has never been previously held that frustration or impossibility warranted the cessation of future wages. Since petitioners have not attempted to sustain such a statement other than by citing two cases which do not support it, respondents will only refer the Court to one of those cases, *Tarleton* v. *Mallory, supra,* which cited in its opinion *The M. M. Caleb,* Fed. Cas. 9,682, where the vessel was lost (and the voyage most certainly frustrated) and said.

> "That necessarily *terminated* the service of the seamen."

POINT B.

The Neutrality Proclamation of April 10, 1940 (4 Fed. Reg. 1939), frustrated the adventure as to deny petitioners' claim for wages beyond May 15, 1940 and no alternative method (possible of performance) of effecting a discharge existed after the arrival of the vessel at New York.

The Circuit Court found and the petitioners now seem to agree that the provisions of the contract requiring that the men be signed off at Sandefjord, Norway, was frustrated by the Presidental Proclamation of April 10, 1940 (Opinion, C. C. A. 403).

The petitioners now argue, however, that the alternative option of the respondents to discharge the men elsewhere, simultaneously with the frustration of the promise to sign off the men in Norway, became transmuted thereby from a right to a duty to discharge the men at New York.

The law, the petitioners claim, has always been that where one of the alternative methods of performing a contract is frustrated then the performance of the alternative becomes obligatory upon the promisor, even though the alternative be at his option.

The cases cited, including a decision of this Court, do not support such a proposition. They correctly state the law to be that where there are two alternative *promises* by a party to a contract and one becomes impossible to perform then the remaining alternative ceases to be an alternative *promise* and must be performed.

In the instant case, the Circuit Court has found that there was but one promise, i. e., to sign off the men at Norway with the right reserved to send them home from anywhere, and petitioners have now agreed that the per-

formance as to signing off in Norway was impossible. But they argue, nevertheless, that a right reserved in a party can be changed into a duty by the fact that a promise becomes impossible of performance. This has never been the law and the cases cited in its support do not sustain it.

Moreover, were it possible to effect a change in kind and transfer a right into a duty in the manner suggested by petitioners, there would be no change in the result here. The alternative suggested by petitioners was as effectively frustrated as was the original promise.

At New Orleans and at New York the Master was served with orders of the United States Immigration Bureau detaining the crew on board and in addition the discharge of this crew of aliens were forbidden by the terms of a statute of the United States (Title 8, United States Code, Section 168):

> "Paying off or discharging excluded aliens employed on vessels; landing to allow reshipping.
>
> It shall be unlawful to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens. In case any such alien intends to reship on board any other vessel bound to any foreign port or place, he shall be allowed to land for the purpose of so reshipping, under such regulations as the Secretary of Labor may prescribe to prevent aliens not admissible under any law, convention, or treaty from remaining permanently in the United States, and may be paid off, discharged and permitted to remove his effects, anything in such laws or treaties or in this subchapter to the contrary notwithstanding, provided due notice of such proposed action be given by the master or the seaman himself to the principal immigration officer in charge at the port of arrival."

The Special Commissioner found and the District Court affirmed the finding that the petitioners were required to live aboard the vessel by order of the United States Immigration authorities (953) and that

> "Libelants claim that until they are repatriated to Norway they are entitled to their base wages. It was no fault of the ship that the men were not permitted to land or that they could not obtain transportation to Norway. The shipowner tried in every was to persuade the government officials to permit the crew to land and the shipowner was ready to pay for their transportation to Norway if the men could secure it. War conditions and official orders made it impossible to carry through the contract of employment as originally contemplated. The crew knew this as well as the owner."

and further (956-957):

> "As a further part of libelants claim in the first cause of action they ask that respondent pay them penalties of two days for one, for every day of delay in the payment of their wages. In view of the extent and nature of the claims I believe the respondent was 'morally justified' in not paying the basic wage."

Therefore, not only was it impossible for respondents to pay off in Norway, but they could not discharge and pay off the crew here unless its members were willing to sign off for the purpose of shipping on a foreign vessel. So that, whether it was a right or a duty for respondents to discharge the petitioners here, it was impossible for them to do so without the consent of petitioners, whose demands were of such a nature to warrant a finding (to be given the greatest of weight by virtue of Admiralty Rule 43½) that respondents were "morally justified" in not doing so.

Although petitioners claim that this point was unanticipated and unbriefed below, respondents most cer-

tainly did brief the point and the impossibility of discharge here was denied by petitioners on the ground that the men were finally put ashore by order of the District Court and that, therefore, such an action could not have been illegal. The reason the men were able to go ashore after the decision of the District Court was because the Norwegian Consul agreed to take them into his custody a step which he had previously refused to take until there was some judicial determination of the rights of the parties (933-934).

The reflection in petitioners' brief that the respondents later sold their cargo and their vessel apart from the fact that it is a highly improper statement being made upon events and circumstances outside the record is also as irrelevant as the citation at length of cases distinguishing subjective and objective impossibility in the performance of contracts.

The respondents have never sought to advance their lack of funds as a reason for not discharging the men here. They have maintained and the Courts below have found that the men could not, without their consent, have been discharged here because of the orders of the Immigration Bureau and because of the prohibition of U. S. C. A. 168, that they were "morally justified" in not effecting a discharge on the exorbitant demands of petitioners (957, 1045).

Such an impossibility is patently and irrefutably objective.

POINT C.

The "admission" of liability of July 15, 1940, constituted, at its strongest, an estoppel insufficient to revive affirmatively a contract which had expired by operation of law on May 15, 1940.

Respondent have taken out of its context an isolated statement of counsel and used it as the foundation of a theory which exceeds the bounds of the law of estoppel.

In the same affidavit in which the statement itself appears it is further stated (302):

> "Answering the first demand, there were no wages, share bonus, overtime and war risk bonuses due to the libellants at the time of the filing of the libel, nor are there any such claims now due"

and further

> "* * * but that the premises be worked out between the respondents and the libelants through their proctors at least until the issues raised in the libel have been tried out" (311-312).

Further in explanation we should consider the circumstances surrounding the statement since any alleged admission claimed to create an estoppel is subject to explanation. At the time of the argument of the motion on July 15, 1940 and before and after that date, the respondents never ceased in their efforts to bring about a settlement of the matter but could not get the appellants to budge from their full demands (which, it has been shown were of such a nature that the District Court found that the respondents were morally justified in not meeting them) (1045). So that on July 15, 1940 and up to the time of the hearing before the Special Commissioner the respondents were willing to make some concessions in the matter

of wages if petitioners would relinquish their unreasonable demands (802-803), so that the statement, under all the circumstances, can only be regarded as made in the spirit of compromise. Naturally when petitioners remained obdurate, the parties were relegated to their rights before the Court (930).

Moreover, the absolute maximum force of an admission is that which petitioners claim, it is conclusive upon the parties but not upon the Court.

Certainly, if the Courts below upon proper grounds have found that wages ceased on May 15, 1940, the statement relied upon by petitioners could not revive them.

Moreover, it is respondents' further contention that the filing of the libel in personam on July 1, 1940 was an election to declare the voyage at an end, a point which the Circuit Court found it unnecessary to decide. *Charles L. Baylis,* 25 Fed. 862. If, by their own election, petitioners had terminated their relationship with respondents, were they not, by virtue of the same law of estoppel correctly applied, estopped to deny that the relationship had ended?

POINT D.

The petitioners lost their right to repatriation by shipping foreign.

The petitioners, up to this point, have stoutly maintained that the contract, where possible, be enforced to the fullest. The contract provided

> "3. If the employed wishes himself to be signed off at a place outside the place of signing on and this is agreed to, his wages are stopped and repatriation expenses will not be paid."

The Special Commissioner and the Courts below have given the contract the enforcement which the petitioners have demanded.

Nothing in petitioners brief tends even remotely to establish a reason why the contract should not be followed according to its terms in this respect, other than some lively but unsupported speculation as to what situations this portion of the contract was meant to cover. Such speculation is unwarranted, the contract speaks for itself and the Special Commissioner, the District Court and the Circuit Court of Appeals have been unanimous in their understanding of the meaning of the provision (1042-1043; Opinion C. C. A., fol. 406).

The respondents both below and here strongly resent the reiterated implication of duplicity on their part in petitioners' statements that, after stipulating that the crew would not prejudice its rights to repatriation by signing off, the respondents then changed their position once the men were gone. This is entirely untrue and unwarranted. The stipulation neither specifically nor impliedly reserves the right to repatriation (325-326). In drawing the stipulation set forth at length in petitioners' brief, respondents specifically and categorically refused to sign any stipulation which contained a provision attempting to reserve petitioners' rights contrary to the terms of the contract and the stipulation quoted in petitioners' brief does not mention repatriation nor the reservation of any rights thereto, and no such rights were meant to be reserved by either party.

Moreover, the Courts below are supported by reasons deep-seated in the very idea of repatriation for seamen, i. e., once the seaman enters the employ of another vessel the owner's responsibility to him ends.

The suggestion that the Court should have assessed the amount of repatriation in contradiction to the contract and awarded the amount as liquidated damages is contrary too to the idea of repatriation and unsupported by any authority. *Johnson* v. *Standard Oil Co. of N. J.*, 1940 A. M. C.

1145; *The Prahova,* 38 Fed. Sup. 418; *The Hawaiian,* 33 Fed. Supp. 985, 987.

Petitioners' contention that this interpretation is contrary to the manner in which wars have generally been held to operate on contract rights, so as to cause merely suspension for the duration is best answered by the language of the opinion of this Court in *Allanwilde Transportation Co.* v. *Vacuum Oil Co.,* 248 U. S. 377, 386:

> "The duration was of indefinite extent. Necessarily the embargo would be continued as long as the cause of its imposition, that is, the submarine menace, and that, as far as then could be inferred, would be the duration of the war, of which there could be no estimate or reliable speculation. The condition was, therefore, so far permanent as naturally and justifiably to determine business judgment and action depending upon it."

POINT E.

The opinions below are in accord with prior Federal and State Court decisions and raise no question of national or local importance and are in accord with the decisions of this Court.

It has been amply shown that the holdings of the Courts below are in accord with the law with regard to the payment of seamen's wages, their contracts of hire and repatriation. Petitioners have failed to show even one instance of where said holdings are in contradiction of any decisions of any Federal or State Court and have failed to substantiate any sound basis for the necessity of the review of said holding by this Court.

Respondents agree wholeheartedly with petitioners in their regard for the splendid work the seamen of the United

Nations have been doing in furtherance of the war effort. But in view of the fact that petitioners here have failed utterly to establish error in the decisions of the Courts below, respondents cannot perceive how a review of said decisions by this Court will speed victory for our cause.

Respectfully submitted,

JOSEPH K. INNESS,
Proctor for Respondents.

THOMAS J. BLAKE,
Proctor for Respondents.